

SENATE BILL REPORT

SB 5579

As Reported by Senate Committee On:
Law & Justice, February 12, 2015

Title: An act relating to exempting certain firearms transfers involving licensed security guards from background check requirements.

Brief Description: Exempting certain firearms transfers involving licensed security guards from background check requirements.

Sponsors: Senators Dammeier, Roach, Becker, Padden, Conway, Hobbs, Angel, Honeyford, Pearson, Sheldon and Hatfield.

Brief History:

Committee Activity: Law & Justice: 2/09/15, 2/12/15 [DPS, DNP].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5579 be substituted therefor, and the substitute bill do pass.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pearson and Roach.

Minority Report: Do not pass.

Signed by Senators Pedersen, Ranking Minority Member; Darneille and Kohl-Welles.

Staff: Aldo Melchiori (786-7439)

Background: All firearm sales or transfers, in whole or part in this state including a sale or transfer where either the purchaser or seller or transferee or transferor is in Washington, are subject to background checks unless specifically exempt by state or federal law. The background check requirement applies to all sales or transfers including, but not limited to, sales and transfers through a licensed dealer, at gun shows, online, and between unlicensed persons.

No person may sell or transfer a firearm unless:

- the person is a licensed dealer;
- the purchaser or transferee is a licensed dealer; or
- the parties to the transaction complete the sale or transfer through a licensed dealer.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

If neither the transferor nor the transferee are licensed dealers, the transferor must deliver the firearm to a licensed dealer to process the sale or transfer as if the licensed dealer is selling or transferring the firearm from its inventory to the purchaser or transferee, except that the unlicensed seller or transferor may remove the firearm from the business premises of the licensed dealer while the background check is being conducted. If the seller or transferor removes the firearm from the business premises of the licensed dealer while the background check is being conducted, the purchaser or transferee and the seller or transferor must return to the business premises of the licensed dealer and the seller or transferor must again deliver the firearm to the licensed dealer prior to completing the sale or transfer.

The licensed dealer must comply with all requirements of federal and state law that would apply if the licensed dealer were selling or transferring the firearm from its inventory to the purchaser or transferee, including conducting a background check on the prospective purchaser or transferee in accordance with federal and state law requirements and fulfilling all federal and state recordkeeping requirements.

The purchaser or transferee must complete, sign, and submit all federal, state, and local forms necessary to process the required background check to the licensed dealer conducting the background check. If the results of the background check indicate that the purchaser or transferee is ineligible to possess a firearm, then the licensed dealer must return the firearm to the seller or transferor.

The licensed dealer may charge a fee that reflects the fair market value of the administrative costs and efforts incurred by the licensed dealer for facilitating the sale or transfer of the firearm.

The background check requirements for transfers between unlicensed transferors and transferees do not apply to the following:

- a transfer between immediate family members, limited to spouses, domestic partners, parents, children, siblings, grandparents, grandchildren, nieces, nephews, first cousins, aunts, and uncles, that is a bona fide gift;
- the sale or transfer of an antique firearm;
- a temporary transfer of possession of a firearm if the transfer is necessary to prevent imminent death or great bodily harm to the person to whom the firearm is transferred if: (1) the temporary transfer only lasts as long as immediately necessary to prevent such imminent death or great bodily harm; and (2) the person to whom the firearm is transferred is not prohibited from possessing firearms under state or federal law;
- any law enforcement or corrections agency and, to the extent the person is acting within the course and scope of the person's employment or official duties, any law enforcement or corrections officer, United States Marshal, member of the armed forces of the United States or the National Guard, or federal official;
- a federally licensed gunsmith who receives a firearm solely for the purposes of service or repair, or the return of the firearm to its owner by the federally licensed gunsmith;
- the temporary transfer of a firearm (1) between spouses or domestic partners; (2) if the temporary transfer occurs, and the firearm is kept at all times, at an established shooting range authorized by the governing body of the jurisdiction in which such range is located; (3) if the temporary transfer occurs and the transferee's possession of

- the firearm is exclusively at a lawful organized competition involving the use of a firearm, or while participating in or practicing for a performance by an organized group that uses firearms as a part of the performance; (4) to a person who is under 18 years of age for lawful hunting, sporting, or educational purposes while under the direct supervision and control of a responsible adult who is not prohibited from possessing firearms; or (5) while hunting if the hunting is legal in all places where the person to whom the firearm is transferred possesses the firearm and the person to whom the firearm is transferred has completed all training and holds all licenses or permits required for such hunting, provided that any temporary transfer is permitted only if the person to whom the firearm is transferred is not prohibited from possessing firearms under state or federal law; or
- a person who (1) acquired a firearm other than a pistol by operation of law upon the death of the former owner of the firearm, or (2) acquired a pistol by operation of law upon the death of the former owner of the pistol within the preceding 60 days. At the end of the 60-day period, the person must either have lawfully transferred the pistol or must have contacted the Department of Licensing to notify the department that the person has possession of the pistol and intends to retain possession of the pistol, in compliance with all federal and state laws.

Summary of Bill (Recommended Substitute): In addition to the other circumstances in which a transfer is permitted without a background check, a background check is not required for the transfer of a firearm between licensed private security guards or transfers of a firearm between the owner of a firearm and a licensed private security guard. The transfer of a firearm between a person being trained to be a licensed security guard under the supervision of a certified firearms instructor and the instructor is also exempt from the background check requirement.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (Recommended Substitute): The transfer of a firearm between a person being trained to be a licensed security guard under the supervision of a certified firearms instructor and the instructor is also exempt from the background check requirement.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: This change would be within the spirit and intent of the initiative. Sometimes the private security company actually owns the firearm, so the language is tailored to account for this. All firearms carried by armed security guards in the performance of their duties must be owned or leased by the employer. Security guards are subject to multiple background checks before they get a license. The bill does not go far enough to correct the exemption limitations. It should exempt all temporary transfers. The initiative created some very real operational problems for security guards. Real firearms are often used in the manufacture of holsters to check the final fit of the

product. Technically, holster manufacturers can't transfer firearms to each other for these fit checks.

CON: The initiative expresses the will of the people. It is premature to amend it.

OTHER: The initiative has many unintended consequences because of the broad definition of transfer. To comply with the law, a security guard must have a background check when he starts a shift and there must be another check when his shift ends and he returns the firearm. The quality of instruction for security guards has suffered because instructors are unclear about when background checks are required.

Persons Testifying: PRO: Senator Dammeier, prime sponsor; Michael Transue, Pierce County Security Services; James Williams, Pierce County Sportsmans Council, Tacoma Sportsmen's Club; Brian Judy, National Rifle Assn.; Troy Weller, Pierce County Security Service; Tim Wegner, Blade-Tech Industries; Kerry Hooks, citizen.

CON: Rebecca Johnson, WA Alliance for Gun Responsibility.

OTHER: Greg Glassock, citizen.